

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROMULO PEREZ-CATALAN,	:	No. 1:17-cv-1427
Petitioner	:	
	:	(Judge Kane)
v.	:	
	:	(Chief Magistrate Judge Schwab)
CLAIR DOLL, <u>et al.</u>,	:	
Respondents	:	

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Before the Court is Chief Magistrate Judge Schwab's December 6, 2017 Report and Recommendation (Doc. No. 11), that recommends that the Court grant Petitioner's petition for writ of habeas corpus submitted pursuant to 28 U.S.C. § 2241 (Doc. No. 1), challenging his continued detention without an individualized bond hearing while immigration removal proceedings are pending. Specifically, relying on Chavez-Alvarez v. Warden York County Prison, 783 F.3d 469 (3d Cir. 2015), Chief Magistrate Judge Schwab recommends that this Court grant the instant petition and direct that a bond hearing be held by an immigration judge within thirty (30) days of the date of this Order. (Doc. No. 11 at 5-8.)

On December 11, 2017, Petitioner filed a notice of no objection to the Report and Recommendation (Doc. No. 12), requesting that, if Respondents do not object to the Report and Recommendation, the Court waive the objection period provided by Local Rule 72.3 and adopt the Report and Recommendation immediately. On December 12, 2017, the Respondents filed a notice with the Court indicating that they have no objection to the Report and Recommendation. (Doc. No. 13.)

ACCORDINGLY, on this 15th day of December 2017, upon independent review of the

record and the applicable law, **IT IS ORDERED THAT:**

1. The Court **ADOPTS** the Report and Recommendation (Doc. No. 11), of Chief Magistrate Judge Schwab;
2. Petitioner's petition for writ of habeas corpus seeking an individualized bond hearing submitted pursuant to 28 U.S.C. § 2241 (Doc. No. 1), is **GRANTED**;
3. An individualized bond hearing shall be conducted by an immigration judge within thirty (30) days of the date of this Order;
4. At this hearing, the immigration judge shall make an individualized inquiry into whether detention remains necessary to fulfill the purposes of ensuring that the Petitioner attends removal proceedings and that his release will not pose a danger to the community in accordance with Chavez-Alvarez v. Warden York County Prison, 783 F.3d 469, 475 (3d Cir. 2015);
5. At this hearing the government shall bear the burden of presenting evidence and proving that Petitioner's continued detention is necessary to fulfill the purposes of the detention statute in accordance with Diop v. ICE Homeland Security, 656 F.3d 221, 233 (3d Cir. 2011); and
6. The Clerk of Court is directed to **CLOSE** this case.

s/ Yvette Kane

Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania